

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VIVIAN BURNS,

Plaintiff,

v.

RICARDO MARTINEZ et al.,

Defendant.

CASE NO. 2:24-cv-01826-LK

ORDER ON PLAINTIFF’S
MOTION TO PROCEED WITH
CAUSE OF ACTION

This matter comes before the Court on pro se Plaintiff Vivian Burns’ Motion to Proceed with Cause of Action. Dkt. No. 11. For the reasons set forth below, the Court grants the motion, vacates its previously issued Judgment, Dkt. No. 13, and orders Ms. Burns to submit a completed application for leave to proceed in forma pauperis (“IFP”).

I. BACKGROUND

On November 5, 2024, Ms. Burns filed an application for leave to proceed IFP and attached a proposed complaint. Dkt. Nos. 1, 1-2. On November 8, 2024, the Clerk of Court sent Ms. Burns a Notice of Filing Deficiency because not all sections of the IFP application had been “completed,

1 signed, and dated.” Dkt. No. 4 at 1. On December 16, 2024, Judge Tsuchida issued an R&R
2 recommending that the Court deny Ms. Burns’ IFP application and directing Ms. Burns to either
3 submit a completed IFP application or pay the usual filing fee within 14 days of the adoption of
4 the R&R. Dkt. No. 6 at 2. A copy of the R&R was sent to the address then on file for Ms. Burns
5 in this matter: 10605 SE 240th Street, No. 344, Kent, WA 98301. However, both the Notice of
6 Filing Deficiency and the R&R were returned as undeliverable, with stamps indicating that Ms.
7 Burns was no longer located at that address. Dkt. Nos. 5, 7.

8 On January 15, 2025, this Court deferred ruling on the R&R and directed the Clerk of Court
9 to resend copies of the Notice of Filing Deficiency and the R&R to an alternative address listed on
10 various of Ms. Burns’ filings. In that order, the Court also warned that Ms. Burns’ failure to correct
11 her address and any filing deficiencies within 14 days would result in dismissal. *Id.* Because Ms.
12 Burns failed to take any corrective action by the deadline imposed by the January 15 Order, on
13 February 6, 2025, the Court issued another order adopting Judge Tsuchida’s R&R and dismissing
14 the case without prejudice for failure to prosecute. Dkt. No. 9; *see also* Dkt. No. 13 (judgment
15 pursuant to January 15 Order).

16 Over five months later, on July 8, 2025, Ms. Burns filed a “Motion to Proceed with cause
17 of action” and an accompanying declaration. Dkt. Nos. 11, 12. In the motion, Ms. Burns states that
18 her “original lawsuit contained in the footnote the address to communicate with Plaintiff,” and that
19 “[t]he Clerk . . . sent notices to an address that should not have been on file in the Court records”
20 and “add[ed] delay upon delay followed by demands to respond to judicial notices that were never
21 received.” *Id.* at 4–5.

22 II. DISCUSSION

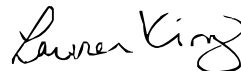
23 Because it appears that Ms. Burns has not been receiving communications from the Court,
24 in the interests of justice the Court vacates its prior judgment and February 6, 2025 order. Dkt.

Nos. 9, 13; *see also Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262–63 (9th Cir. 1993). However, because Ms. Burns still has not corrected her IFP application, she has not yet satisfied the Court’s January 15, 2025 order requiring her to do so. Accordingly, the Court again orders Ms. Burns to file a corrected IFP application by August 7, 2025.

III. CONCLUSION

For the reasons stated above, the Court VACATES the judgment and order dismissing this case, Dkt. Nos. 9, 13; DIRECTS the Clerk to send copies of the Notice of Filing Deficiency, Judge Tsuchida’s R&R, and the Court’s January 15, 2025 Order, Dkt. Nos. 4, 6, 8, to Ms. Burns at her correct address (1229 W. Smith Street, Kent, WA 98032); and ORDERS Ms. Burns to submit a corrected IFP application within 21 days of this Order (August 7, 2025). If Ms. Burns fails to submit a corrected IFP application or pay the usual case filing fee by that time, the Court will dismiss this action and close the case.

Dated this 17th day of July, 2025.



Lauren King
United States District Judge